

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

RYAN A. KLIESCH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 3:10-0600
	)	Judge Trauger
FIFTH THIRD MORTGAGE COMPANY and	)	Magistrate Judge Knowles
MORTGAGE ELECTRONIC REGISTRATION	)	
SYSTEMS, INC.,	)	
	)	
Defendants.	)	

**ORDER**

On November 29, 2010, the Magistrate Judge issued a Report and Recommendation (Docket No. 12), to which defendant Fifth Third Mortgage Company has filed a partial objection (Docket No. 15). Because the Report and Recommendation rules on a dispositive motion, pursuant to Rule 72(b), FED. R. CIV. P., and 28 U.S.C. § 636(b)(1)(C), this court must review *de novo* any portion of the Report and Recommendation to which a specific objection is made. *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001); *Massey v. City of Ferndale*, 7 F.3d 506, 510 (6th Cir. 1993).

Defendant Fifth Third does not object to the Magistrate Judge's recommendation that all causes of action alleged in the Complaint against this defendant, except the plaintiff's claim for "excessive fees," be dismissed. The defendant does object to the fact that the Magistrate Judge recommends that the plaintiff's claim of "excessive fees during the closing and servicing of the loan" survive this defendant's Motion to Dismiss.


The objection is **SUSTAINED**. The plaintiff does not tie his claim for “excessive fees charged during the closing and servicing of this loan” (Docket No. 1 at 4) to any particular cause of action, and the defendant is correct that there is no independent cause of action for “excessive fees” under either Tennessee law or federal law. Moreover, any cause of action to which this claim could be reasonably tied has appropriately been recommended for dismissal by the Magistrate Judge. The plaintiff’s vague, unspecified claim for “excessive fees charged during the closing and servicing of this loan” will likewise be dismissed.

For the reasons expressed herein, the Report and Recommendation is **ACCEPTED** and **MODIFIED**. For the reasons expressed in the Report and Recommendation and herein, it is hereby **ORDERED** that all claims alleged against defendant Fifth Third Mortgage Company are **DISMISSED WITH PREJUDICE**.

This case is **REFERRED** back to the Magistrate Judge for further handling under the original referral Order. The court notes that the remaining defendant in this case, Mortgage Electronic Registration Systems, Inc., appears to have been appropriately served with process on August 30, 2010 and has failed to respond to the Complaint.

It is so **ORDERED**.

Enter this 22<sup>nd</sup> day of December 2010.

  
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ALETA A. TRAUGER  
U.S. District Judge